

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3964 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CM RATHOD & ORS.

Versus

SECRETARY, NARMADA WATER RESOURCES DEPT. & ORS.

Appearance:

MR SV BACHANI for Petitioners
MR PM THAKKAR, Sr.Advocate, assisted by
MR DM THAKKAR for Respondent No.1, 2 & 3
None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/97

ORAL JUDGMENT

#. The petitioners are working in Narmada & Water Resources Department under the control of respondent No.2. Earlier, they were working under the control of Superintending Engineer, Kakrapar Modernization Circle, Surat, till 30th March 1989. Thereafter as per the order dated 30th September 1989 of respondent No.1, the office

of the Superintending Engineer, Kakrapar Modernization Circle, Division I and five Sub Divisions were closed with effect from 1.10.89. The staff of the said Circles, Divisions and Sub Division was transferred and put under the control of the office of respondent No.2 and since then the petitioners are working under respondent No.2. The consequences of the order dated 30th September 1989 were that the petitioners as well as other staff of the said closed offices were declared surplus. Under the order dated 3rd May 1990 of respondent No.1, the petitioners were allotted to the Sardar Sarovar Narmada Nigam Limited, Gandhinagar. The petitioners have challenged this order dated 3rd May 1990, Annexure 'D' of respondent No.1 by this Special Civil Application.

#. This Court has protected the petitioners by grant of interim relief and for all these years, under the interim order of this Court, the order aforesaid was not given effect to and the petitioners are working in the Government Department. It is not necessary to desist on all the facts and contentions raised in the Special Civil Application as the learned counsel for respondents No.1, 2, and 3, Shri P.M.Thakkar made a statement before this Court that respondent No.1 will consider the cases of petitioners for their absorption in the Department itself within a reasonable time and all efforts shall be made to see that they are absorbed in the Department itself. However, in case any of the petitioners is not absorbed for non availability of posts, a speaking order shall be passed and a copy of the same shall be sent to the petitioner concerned. The learned counsel for petitioners is in agreement with the aforesaid statement of the learned counsel for respondents No.1, 2 and 3. However, the learned counsel for petitioners submits that the petitioners are being protected by this Court for all these years by grant of interim relief and as such, till the matter of their absorption in the Department itself is processed and decided, interim relief may be ordered to be continued. To this prayer of learned counsel for petitioners, the learned counsel for respondents very candidly consented. Next submission made by learned counsel for petitioners is that there may be possibility that some of the petitioners may not be absorbed in the Department itself and they may not be satisfied with the decision of respondent and as such, further protection may be granted for a reasonable time so that they may take recourse to legal remedy available to them. Shri P.M.Thakkar, learned counsel for respondents very fairly conceded to this request of the counsel for petitioners also.

#. In the result, this Special Civil Application is disposed of in terms of the statements made by learned counsel for respondents and agreed upon by learned counsel for petitioners. However, till the matter of absorption of petitioners in the Department itself is considered and finally decided, the interim relief granted by this Court shall continue and for those petitioners who are not absorbed in the Department itself, it shall continue for a further period of 15 days from the date of despatch of the such orders by respondents.

#. The Special Civil Application and Rule stand disposed of accordingly with no order as to costs.

.....

(sbl)